

**REMARKS**

The application was filed with claims 1-16. Claims 1-9 were canceled by previous amendment. Claims 17-29 were added by previous amendments. Therefore, claims 10-29 are pending. However, claims 11 and 17-24 are withdrawn as being drawn to a non-elected invention. Thus, claims 10, 11-16, and 25-29 are under consideration. No claim has been amended herein.

Applicant notes that the Office Action Summary lists claims 17-29, rather than claims 17-24, as withdrawn. Applicant assumes that this is an inadvertent error and asserts that claims 25-29 are not withdrawn, but are currently under consideration.

***Request for Telephonic Examiner Interview***

Applicant respectfully requests an opportunity for the inventor and counsel for Applicant to discuss fully with the Examiner the claimed invention and the reasons supporting the nonobviousness thereof in a telephone interview. At Examiner's convenience, please contact the undersigned to schedule a teleconference with the inventor, Dr. Philip Jacoby.

***Claim Rejections under 35 U.S.C. § 103(a)***

As an initial matter, Applicant notes that none of claims 10, 12-16, and 25-29 has been rejected under 35 U.S.C. § 102, thereby indicating that the pending claims are novel.

The Office Action has again rejected claims 10, 12-16, and 25-29 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,374,798 to Mercer (hereinafter "Mercer") in view of U.S. Patent No. 5,310,584 to Jacoby *et al.* (hereinafter "Jacoby"). Applicant respectfully disagrees that the pending claims are obvious in view of the cited references. Specifically, as set forth in detail in a previous response to a previous application, no Office Action in this prosecution has provided any suggestion or motivation to combine the disclosure of Mercer with that of Jacoby to arrive at the claimed invention. Further, neither

Mercer, nor Jacoby, nor the combination thereof provides a reasonable expectation of success for combining the teachings of Mercer and Jacoby to arrive at the claimed invention.

Moreover, the Office Action concedes that “Mercer fails to disclose a polypropylene web comprising a propylene polymer comprising beta-spherulites in an amount sufficient to produce a K-value of about 0.2 to 0.95 when measured by x-ray diffraction or to show a beta crystalline melting peak during the first or second heating scan when measured using a differential scanning calorimeter” (see Office Action mailed February 23, 2007, page 2), but purports to find this missing element in Jacoby: a “propylene polymer comprising beta-spherulites in an amount sufficient to produce a K-value of about 0.2 to 0.95” (See Office Action mailed February 23, 2007, page 3). The Office Action then concludes – without support – that “it would have been obvious to one of skill in the art at the time of the invention to use Jacoby’s polypropylene material as the polypropylene material in Mercer in order to improve the strength of the sheet” (See Office Action mailed February 23, 2007, page 3). An unsupported conclusion of obviousness is no more than an assertion that it would be “obvious to try” to use Jacoby’s polypropylene material as the polypropylene material in the process of Mercer, an improper standard under 35 U.S.C. § 103. See MPEP § 2145; see also *In re O’Farrell*, 853 F.2d 894, 903 (Fed. Cir. 1988). For at least this reason, the Office Action has not set forth a proper *prima facie* obviousness rejection, and the rejection must be withdrawn.

Nonetheless, even if the Office Action had properly set forth a *prima facie* obviousness rejection of any of the current claims, which it did not, Applicant’s specification and the enclosed declaration of Dr. Philip Jacoby demonstrates that the claimed invention exhibits unexpectedly superior results sufficient to overcome any such *prima facie* rejection.

**CONCLUSION**

In light of the above arguments, the claims are believed to be allowable, and Applicant respectfully requests notification of same. The Examiner is invited and encouraged to directly contact the undersigned if such contact may enhance the efficient prosecution of the application to issuance.

A three-month shortened statutory period was set for response, nominally ending May 23, 2007. Therefore, this paper is timely. Payment in the amount of \$395.00 (reflecting the \$395.00 fee for the Request for Continued Examination for a small entity) is enclosed herewith. The electronic payment is made concurrently herewith to be charged to a credit card. No further fee is believed due. However, the Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,  
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